

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **November 8, 2005**

AGENDA ITEM NO.: 5

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Rezoning – 108 Melinda Drive & Wards Ferry Road, R-C, Conservation District & R-4, Multi-Family Residential District to B-3, Community Business District (Conditional). Conditional Use Permit (CUP) – Fill within the 100-year floodplain.

RECOMMENDATION: Approval of the requested rezoning and CUP petitions.

SUMMARY: Compson Development, LC is petitioning to rezone approximately 1.3 acres at 108 Melinda Drive and Wards Ferry Road from R-C, Conservation District and R-4, Multi-Family Residential District to B-3, Community Business District (Conditional) and for a Conditional Use Permit to allow fill within the 100-year flood plain to allow the construction of commercial entrances to serve a proposed shopping center in Campbell County. The Planning Commission recommended approval of the rezoning and CUP petitions because:

- The petitions agree with the Future Land Use Map (FLUM) which recommends a Regional Commercial use for the subject property.
- Petition is substantially different from the rezoning petition denied by the City Council on February 22, 2005.
- Cooperation Agreement between the City of Lynchburg & County of Campbell along with the voluntarily submitted proffers submitted by the petitioner adequately address traffic and demands for service concerns.

PRIOR ACTION(S):

November 1, 2005: Planning Division recommended approval of the Rezoning and CUP petitions. Planning Commission recommended waiving the twenty-one (21) day submittal requirement for proffers (6-0, with Commissioner Bacon absent). Planning Commission recommended approval of the rezoning petition (5-1, Commissioner Bacon absent) with the following voluntarily submitted proffers:

1. The site will be landscaped as follows:
 - a. Along the frontage of Wards Ferry Road between the intersection of Wards Ferry Road and Wards Road and the first entrance into the center, a 20-foot wide landscaped buffer shall be provided. The buffer shall be planted in a manner similar to that which now exists along Wards Road in front of Logan's Roadhouse and O'Charley's restaurants.
 - b. Street trees will be planted 40-feet on-center along the property frontage of Wards Ferry Road.
 - c. Landscaped islands shall be constructed in the parking lot so that no more than fifteen (15) parking spaces are located between islands.
 - d. If permitted by City floodplain regulations, landscaping similar to "1a" shall be provided on each side of the main entrance (across from Target).
 - e. A landscaped berm shall be established between the main entrance to the shopping center and the property of Covenant Presbyterian Church.
2. No commercial entrance or other commercial access shall be established onto Melinda Drive. The developer shall grant an access easement over and across shopping center property to Covenant Presbyterian Church for access to and

from Wards Ferry Road. Such easement shall be granted subject to any terms, conditions, covenants or restrictions that are required by retail tenants of regional shopping center and that are customarily required by retail tenants of regional shopping centers similar to the center proposed for this property. Such easement shall also be subject to the execution of a standard operation and maintenance agreement by the developer and Covenant Presbyterian Church.

3. The developer shall install a new traffic signal on Wards Ferry Road at the proposed shopping center entrance and the existing Wards Crossing (Target) entrance.
4. The developer agrees to construct a taper and turn lane on the southbound Wards Ferry Road approach into the proposed shopping center main entrance.
5. The developer agrees to lengthen the left turn lane (storage & taper) on the northbound approach to the Wards Ferry and Wards Road intersection.
6. The developer agrees to construct dedicated left-turn lanes on Wards Ferry Road at the proposed main entrance into the shopping center. Said turn lanes will be constructed by modifying existing lane markings on Wards Ferry Road.
7. All transportation improvements will be the responsibility of the developer and/or its assignees, except as provided herein.
8. The developer will extend the screening wall between the shopping center and the residentially-zoned land along Melinda Drive into the City as necessary in order to block the view of the roofs of the shopping center buildings from Melinda Drive to the greatest extent practicable.
9. All stormwater management systems shall be designed and built to address both the quantity and quality of water being discharged from the shopping center property to the standards now in effect in the City of Lynchburg. The developer shall not be required to treat or detain any off-site water draining onto the shopping center property.
10. The developer acknowledges the existence of the Cooperation Agreement between the City of Lynchburg and the County of Campbell date the 12th day of October 2005.
11. The Developer shall maintain a 50-foot buffer from the centerline on both sides of Rock Castle Creek that flows within the City Limits. No activities will be implemented that would induce primary impacts to Rock Castle Creek, from its bed extending to the top of the existing embankment. However, it is essential to balance the need for preservation of the buffer area with the need to provide security, safety and visibility for the patrons and merchants. To address these needs, the following criteria are permissible activities within the buffer area;
 - a. Clearing and grading to accommodate the proposed improvements as approved by the site plan submission and review process.
 - b. Planting of a dense hedgerow to prevent pedestrian's access to the creek bed.
 - c. Planting and mowing of grass. Planting of ornamental flower beds, trees and shrubs.
 - d. Construction of pervious trails.
 - e. Placement of benches and picnic tables.
 - f. Construction of footbridges.
 - g. Fencing shall be prohibited.

12. The developer agrees to construct the southern entrance onto Wards Ferry Road from the shopping center as a “right in, right out” only and as shown lined up with the Logan’s entrance.

Planning Commission recommended approval of the Conditional Use Permit petition (5-1, Commissioner Bacon absent) with the following conditions:

1. The property will be developed in substantial compliance with the site plan prepared by Mattern & Craig dated October 11, 2005.
2. The petitioner will submit to the City the following information, subject to the review and approval of the Environmental Planner and the Senior Design Engineer:
 - * *The proposed limits of the 100-year floodplain must be identified on the site plan.*
 - * *A note on the site plan detailing the water surface elevation at the upstream and downstream boundaries of the property line.*
 - * *An electronic copy of the HEC model.*
3. The petitioner will attain a Letter of Map Revision (LOMR) from the Federal Emergency Management Agency for the subject fill.
4. Stormwater runoff from the access road will be managed through Low Impact Design Standards and subject to the review and approval of the City’s Environmental Planner

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn/ 455-3902

Tom Martin/ 455-3909

ATTACHMENT(S):

- Ordinance
- Resolution
- PC Report
- PC Minutes
- Vicinity Zoning Pattern
- Vicinity Proposed Land Use
- Site Plan
- Cooperation Agreement
- Speaker Sign-Up sheet

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE CHANGING A CERTAIN AREA FROM R-C CONSERVATION DISTRICT AND R-4, MULTI-FAMILY RESIDENTIAL DISTRICT TO B-3, COMMUNITY BUSINESS DISTRICT (CONDITIONAL).

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG, that in order to promote the public necessity, convenience, general welfare, and good zoning practice that Chapter 35.1 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.1-76.____, which section shall read as follows:

Section 35.1-76.____. Change of a certain area from R-C Conservation District and R-4, Multi-Family Residential District to B-3, Community Business District (Conditional).

The area embraced within the following boundaries:

Parcel No. 1

Starting at the intersection of the southerly right-of-way of Melinda Drive and the westerly right of way of Wards Ferry Road, Thence with the westerly right-of-way of Wards Ferry Road with a chord of S 20° 09' 40" E, 249.55 feet to the Actual Point of Beginning; Thence continuing with said right-of-way with a curve to the left whose radius is 781.67 feet an arc distance of 36.65 feet (chord = S 30° 41' 23" E, 36.65 feet) to a point; Thence continuing with same with a curve to the left whose radius is 875.27 feet an arc distance of 271.90 feet (chord = S 40° 55' 56" E, 270.81 feet) to a point; Thence continuing with same, S 49° 49' 54" E, 164.39 feet to a point; Thence leaving said right-of-way and with the easterly property line of Shirley K. McIvor, et al (D.B. 323, Pg. 393), S 79° 34' 35" W, 204.77 feet to a point; Thence continuing with same, N 31° 35' 25" W, 259.00 feet to a point; Thence with the easterly property line of English Development Corp. (D.B. 594, Pg. 156), N 25° 45' 25" W, 132.23 feet to a point; Thence with the southerly property line of The Trustee's of Covenant Presbyterian Church (D.B. 332, Pg. 639), N 61° 31' 20" E, 82.80 feet to the Point of Beginning and containing a total of 1.173 Acres.

Parcel No. 2

Starting at the intersection of the southerly right-of-way of Melinda Drive and the westerly right of way of Wards Ferry Road, Thence with the westerly right-of-way of Wards Ferry Road a chord bearing of S 20° 09' 40" E, 249.55 feet to a point, Thence leaving said right-of-way and with the northerly property line of English Development Corp. (D.B. 631, Pg. 133), S 61° 31' 20" W, 82.80 feet to the Actual Point of Beginning; Thence with the westerly property line of Said English property, S 25° 45' 25" E, 132.23 feet to a point, said point being the northeasterly corner of the property of Shirley K. McIvor, et al (D.B. 323, Pg. 393); Thence with the northerly property line of said McIvor property, S 51° 24' 36" W, 65.27 feet to a point on the City of Lynchburg corporate line; Thence with said corporate line, N 34° 44' 47" W, 171.46 feet to a point on the southerly property line of The Trustee's of Covenant Presbyterian Church (D.B. 332, Pg. 639); Thence with said Church property, S 82° 43' 40" E, 46.04 feet to a point; Thence continuing with same, N 61° 31' 20" E, 51.89 feet to the Point of Beginning and containing a total of 0.249.

Parcel No. 3

Beginning at the intersection of the southerly right-of-way of Melinda Drive and the westerly right of way of Wards Ferry Road, thence with the westerly right-of-way of Wards Ferry Road with a curve to the left whose radius is 781.67 feet an arc distance of 250.62 feet (chord = S 20° 09' 40" E, 249.55 feet) to a point, said point being the northerly property line of English Development Corp. (Deed Book 631, page 133 and Deed Book 594, page 156); thence with said property line S 61° 31' 20" W, 134.69 feet to a point; thence continuing with same, N 82° 43' 40" W, 46.04 feet to a point; thence leaving the property of English Development Corp. and with the City of Lynchburg Corporate line through the property of The Trustee's of Covenant Presbyterian Church (Deed Book 332, page 639), N 34° 44' 47" W, 2.23 feet to a point; thence continuing with same, N 19° 29' 28" W, 137.91 feet to a concrete monument; thence continuing with same N 82° 37' 36" W 181.68 feet to a

point; thence with a new rezoning line, N 07° 16' 20" E, 175.86 feet to a point on the southerly right-of-way of Melinda Drive; thence with said right-of-way, S 82° 43' 40" E, 285.23 feet to the point of beginning and containing 1.725 acres.

. . . is hereby changed from R-4, Multi-Family Residential District to B-3, Community Business District (Conditional), subject to the conditions set out herein below which were voluntarily proffered in writing by the owner, namely: English Development Corporation and Covenant Presbyterian Church, to wit:

1. The site will be landscaped as follows:
 - a. Along the frontage of Wards Ferry Road between the intersection of Wards Ferry Road and Wards Road and the first entrance into the center, a 20-foot wide landscaped buffer shall be provided. The buffer shall be planted in a manner similar to that which now exists along Wards Road in front of Logan's Roadhouse and O'Charley's restaurants.
 - b. Street trees will be planted 40-feet on center along the property frontage of Wards Ferry Road.
 - c. Landscaped islands shall be constructed in the parking lot so that no more than fifteen (15) parking spaces are located between islands.
 - d. If permitted by City floodplain regulations, landscaping similar to "1a" shall be provided on each side of the main entrance (across from Target).
 - e. A landscaped berm shall be established between the main entrance to the shopping center and the property of Covenant Presbyterian Church.
2. No commercial entrance or other commercial access shall be established onto Melinda Drive. The developer shall grant an access easement over and across shopping center property to Covenant Presbyterian Church for access to and from Wards Ferry Road. Such easement shall be granted subject to any terms, conditions, covenants or restrictions that are required by retail tenants of regional shopping center and that are customarily required by retail tenants of regional shopping centers similar to the center proposed for this property. Such easement shall also be subject to the execution of a standard operation and maintenance agreement by the developer and Covenant Presbyterian Church.
3. The developer shall install a new traffic signal on Wards Ferry Road at the proposed shopping center entrance and the existing Wards Crossing (Target) entrance.
4. The developer agrees to construct a taper and turn lane on the southbound Wards Ferry Road approach into the proposed shopping center main entrance.
5. The developer agrees to lengthen the left turn lane (storage & taper) on the northbound approach to the Wards Ferry and Wards Road intersection.
6. The developer agrees to construct dedicated left-turn lanes on Wards Ferry Road at the proposed main entrance into the shopping center. Said turn lanes will be constructed by modifying the existing lane markings on Wards Ferry Road.
7. All transportation improvements will be the responsibility of the developer and/or its assignees, except as provided herein.
8. The developer will extend the screening wall between the shopping center and the residentially zoned land along Melinda Drive into the City as necessary in order to block the view of the roofs of the shopping center buildings from Melinda Drive to the greatest extent practicable.
9. All stormwater management systems shall be designed and built to address both the quantity and quality of water being discharged from the shopping center property to the standards now in effect in the City of Lynchburg. The developer shall not be required to treat or detain any off-site water draining onto the shopping center property.
10. The developer acknowledges the existence of the Cooperation Agreement between the City of Lynchburg and the County of Campbell date the 12th day of October 2005.

11. The Developer shall maintain a 50-foot buffer from the centerline on both sides of Rock Castle Creek that flows within the City Limits. No activities will be implemented that would induce primary impacts to Rock Castle Creek, from its bed extending to the top of the existing embankment. However, it is essential to balance the need for preservation of the buffer area with the need to provide security, safety and visibility for the patrons and merchants. To address these needs, the following criteria are permissible activities with the buffer area;

- a. Clearing and grading to accommodate the proposed improvements as approved by the site plan submission and review process.
- b. Planting of a dense hedgerow to prevent pedestrian's access to the creek bed.
- c. Planting and mowing of grass. Planting of ornamental flower beds, trees and shrubs.
- d. Construction of pervious trails.
- e. Placement of benches and picnic tables.
- f. Construction of footbridges.
- g. Fencing shall be prohibited.

12. The developer agrees to construct the southern entrance onto Wards Ferry Road from the shopping center as a "right-in, right-out" only and as shown lined up with the Logan's entrance.

And the Director of Community Planning and Development shall forthwith cause the Official Land Use Map and the "Official Zoning Map of Lynchburg, Virginia," referred to in Section 35.1-4 of this chapter to be amended in accordance therewith.

Adopted:

Certified:

Clerk of Council

RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO COMPSON DEVELOPMENT, LC TO FILL WITHIN THE 100 YEAR FLOODPLAIN ADJACENT TO WARDS FERRY ROAD, SUBJECT TO CERTAIN CONDITIONS.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG That the petition of Compson Development, LC for a Conditional Use Permit to add fill within the 100-year floodplain to accommodate construction of an access road for a retail shopping center located on a tract approximately one acre in size located adjacent to Wards Ferry Road, also known as Valuation Tax Map No. 261-05-005 be, and the same is hereby, approved, subject to the following conditions:

1. The property will be developed in substantial compliance with the site plan prepared by Mattern & Craig dated October 11, 2005.
2. The petitioner will submit to the City the following information, subject to the review and approval of the Environmental Planner and the Senior Design Engineer:
 - * *The proposed limits of the 100-year floodplain must be identified on the site plan.*
 - * *A note on the site plan detailing the water surface elevation at the upstream and downstream boundaries of the property line.*
 - * *An electronic copy of the HEC model.*
3. The petitioner will attain a Letter of Map Revision (LOMR) from the Federal Emergency Management Agency for the subject fill.
4. Stormwater runoff from the access road will be managed through Low Impact Design Standards and subject to the review and approval of the City's Environmental Planner.

Adopted:

Certified:

Clerk of Council

The Department of Community Planning & Development

City Hall, Lynchburg, VA 24504 434-455-3900

To: Planning Commission
From: Planning Division
Date: November 1, 2005
Re: **REZONING: 108 Melinda Drive and Wards Ferry Road**

I. PETITIONER

Compson Development, LC, 1320 Old Chain Bridge Road, Suite 400, McLean, VA 22101
Representatives: Mr. Brian Beaulieu, 1320 Old Chain Bridge Road, Suite 400, McLean, VA 22101

II. LOCATION

The subject property is a tract of approximately one and three tenths (1.3) acres located at 108 Melinda Drive & Wards Ferry Road.

Property Owners:

English Development Corporation, 1522 Main Street, Altavista, VA 24517
Covenant Presbyterian Church, 108 Melinda Drive, Lynchburg, VA 24502

III. PURPOSE

The purpose of the petition is to rezone approximately one and three tenths (1.3) acres at 108 Melinda Drive and Wards Ferry Road from R-4, Multi-Family Residential District & R-C, Conservation District to B-3, Community Business District (Conditional) to allow commercial access for a shopping center in Campbell County.

IV. SUMMARY

- Petition agrees with the Comprehensive Plan, which recommends a Regional Commercial use for the area.
- Petition is substantially different from rezoning petition denied by the City Council on February 22, 2005.
- Cooperation Agreement between the City of Lynchburg & County of Campbell adequately addresses traffic and service concerns.

The Planning Division recommends approval of the rezoning petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends "Regional Commercial" and "Resource Conservation" uses for the subject property. "Regional Commercial" uses are defined as retail, restaurant, entertainment, and hotel uses that draw customers from the entire region. **(5.5)** "Resource Conservation" areas have special characteristics that make their preservation in open space particularly important to the City's environmental health. These areas are intended to be kept as natural as possible so as to stabilize steep slopes, prevent soil erosion, provide for natural absorption areas for urban runoff, moderate climate and to provide wooded areas for wildlife. **(5.2-5.3)**

The subject property is also located in the vicinity of the intersections of Wards Road, and the US Route 460/US Route 29 interchange. This area is listed as a "major gateway" to the City. The City's gateways serve as the communities' front door, establishing first impressions and reinforcing images and perceptions of Lynchburg's quality of life. The Comprehensive Plan states that "if a property in a gateway area is proposed for rezoning, the City will seek proffers that ensure high aesthetic quality of development and that set aside land for gateway features." **(4.1-4.3)**

2. **Zoning.** The subject property was annexed into the City in 1976. The existing R-4, Multi-Family Residential District and R-C, Conservation District zoning was established in 1978 with the adoption of the current Zoning Ordinance.
3. **Proffers.** The petitioner voluntarily submitted the following proffers with the rezoning application:
 1. The site will be landscaped as follows:
 - a. Along the frontage of Wards Ferry Road between the intersection of Wards Ferry Road and Wards Road and the first entrance into the center, a 20-foot wide landscaped buffer shall be provided. The buffer shall be planted in a manner similar to that which now exists along Wards Road in front of Logan's Roadhouse and O'Charley's restaurants.
 - b. Street trees will be planted 40-feet on-center along the property frontage of Wards Ferry Road.
 - c. Landscaped islands shall be constructed in the parking lot so that no more than fifteen (15) parking spaces are located between islands.
 - d. If permitted by City floodplain regulations, landscaping similar to "1a" shall be provided on each side of the main entrance (across from Target).
 - e. A landscaped berm shall be established between the main entrance to the shopping center and the property of Covenant Presbyterian Church.
 2. No commercial entrance or other commercial access shall be established onto Melinda Drive. The developer shall grant an access easement over and across shopping center property to Covenant Presbyterian Church for access to and from Wards Ferry Road. Such easement shall be granted subject to any terms, conditions, covenants or restrictions that are required by retail tenants of regional shopping center and that are customarily required by retail tenants of regional shopping centers similar to the center proposed for this property. Such easement shall also be subject to the execution of a standard operation and maintenance agreement by the developer and Covenant Presbyterian Church.
 3. The developer shall install a new traffic signal on Wards Ferry Road at the proposed shopping center entrance and the existing Wards Crossing (Target) entrance.
 4. The developer agrees to construct a taper and turn lane on the southbound Wards Ferry Road approach into the proposed shopping center main entrance.
 5. The developer agrees to lengthen the left turn lane (storage & taper) on the northbound approach to the Wards Ferry and Wards Road intersection.
 6. The developer agrees to construct dedicated left-turn lanes on Wards Ferry Road at the proposed main entrance into the shopping center. Said turn lanes will be constructed by modifying existing lane markings on Wards Ferry Road.
 7. All transportation improvements will be the responsibility of the developer and/or its assignees, except as provided herein.
 8. The developer will extend the screening wall between the shopping center and the residentially-zoned land along Melinda Drive into the City as necessary in order to block the view of the roofs of the shopping center buildings from Melinda Drive to the greatest extent practicable.
 9. All stormwater management systems shall be designed and built to address both the quantity and quality of water being discharged from the shopping center property to the standards now in effect in the City of Lynchburg. The developer shall not be required to treat or detain any off-site water draining onto the shopping center property.
 10. The developer acknowledges the existence of the Cooperation Agreement between the City of Lynchburg and the County of Campbell date the 12th day of October 2005.
 11. The Developer shall maintain a 50-foot buffer from the centerline on both sides of Rock Castle Creek that flows within the City Limits. No activities will be implemented that would induce primary impacts to Rock Castle Creek, from its bed extending to the top of the existing embankment. However, it is essential to balance the need for preservation of the buffer area with the need to provide security, safety and visibility

for the patrons and merchants. To address these needs, the following criteria are permissible activities within the buffer area;

- a. Clearing and grading to accommodate the proposed improvements as approved by the site plan submission and review process.
- b. Planting of a dense hedgerow to prevent pedestrian's access to the creek bed.
- c. Planting and mowing of grass. Planting of ornamental flower beds, trees and shrubs.
- d. Construction of pervious trails.
- e. Placement of benches and picnic tables.
- f. Construction of footbridges.
- g. Fencing shall be prohibited.

4. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the development of the property as proposed.

5. **Previous Actions.** The following items in the immediate area have required City Council approval:

- On February 22, 2005, the City Council denied the rezoning petition of Compson Development LC, to rezone approximately 1.3 acres at 108 Melinda Drive and Wards Ferry Road from R-4, Medium High Density Residential to B-3, Community Business District (Conditional) to allow the construction of a commercial access.
- On August 10, 2004, the City Council approved the rezoning petition of Little Horse, LLC from I-2, Light Industrial District to B-5, General Business District (Conditional) at 109 Delta Street.
- On August 10, 2004, the City Council approved the rezoning petition of Little Horse, LLC from I-2, Light Industrial District and B-5, General Business District (Conditional) to B-5, General Business District (Conditional) at 113, 121 & 125 Delta Street.
- On October 12, 1999, the City Council approved the Conditional Use Permit petition of the Church of Jesus Christ of Latter Day Saints at 110 Melinda Drive to allow the construction of a forty-six (46) space parking area.
- On January 26, 1999, the City Council approved the Conditional Use Permit petition of Faison/Trammel Crow on Wards Road to allow fill in the flood plain.
- On January 26, 1999, the City Council approved the rezoning petition of Faison/Trammel Crow from R-3, Two-Family Residential District, R-4, Multi-Family Residential District, R-5, Multi-Family Residential District and B-5, General Business District to B-5, General Business District (Conditional) at the intersections of Wards Road, Wards Ferry Road and Atlanta Avenue.
- On December 14, 1993, the City Council approved the rezoning petition of Charleston Trading Company, Inc., from I-2, Light Industrial District to B-5, General Business District (Conditional) at 4009-4013 Wards Road.
- On December 8, 1992, the City Council approved the rezoning petition of George A. and Sue W. Cox from I-2, Light Industrial District to B-5, General Business District (Conditional) at 121 Delta Street.
- On September 11, 1984, the City Council approved the Conditional Use Permit petition of Covenant Presbyterian Church at 108 Melinda Drive to allow additions to an existing church building.

6. **Site Description.** The subject property is bound to the north (across Melinda Drive) by multi-family uses, to the east (across Wards Ferry Road) by a large retail use (Wards Crossing Shopping Center), to the south by vacant land (zoned B-5, General Business District and proposed for a parking area) and to the west by an institutional use (Covenant Presbyterian Church).

7. **Proposed Use of Property.** The purpose of the rezoning is to allow the construction of commercial access drives to serve a proposed shopping center in Campbell County. The remainder of the property could be used for future commercial development within the City Limits.
8. **Traffic and Parking.** The City's Traffic Engineer is concerned with the impact the proposed development will have on Wards Ferry Road. At the request of the City's Traffic Engineer a traffic study was completed and recommended the need for the following road improvements: 1. A new traffic signal on Wards Ferry Road at the proposed main entrance to the shopping center and the existing entrance to Target. 2. Lengthening of the storage and taper of the left turn lane on the northbound approach to the Wards Road and Wards Ferry Road intersection. 3. A dedicated left turn lane into the main entrance of the shopping center. These improvements will be the responsibility of the developer and have been proffered as part of the rezoning petition.

Of particular concern to the Planning Division is the potential for the amount of "cut through" traffic on Wards Ferry Road, Melinda Drive and Alta Lane to increase due to the proposed development. The Planning Division recommends that a traffic study be conducted to determine what "traffic calming" techniques should be installed to preserve the neighborhood fabric as is consistent with the *Comprehensive Plan*. Neighborhoods and Housing, Objective 1F, Safety and Security states "Explore design (e.g., traffic calming) and enforcement strategies to ensure safe pedestrian and vehicular traffic." (10.12) Transportation, Objective 1D, Neighborhood Traffic states "Ensure that traffic conditions do not degrade neighborhood quality." (14.7) This concern has been addressed in the Cooperation Agreement between the City of Lynchburg and the County of Campbell. In this agreement the County has agreed to pay the City \$100,000 to construct traffic management improvements in these neighborhoods. (Section 5.1a of Agreement) The cooperation agreement also provides that Campbell County will obtain necessary right-of-way, design and construct an access road from the proposed development area to either Leesville Road or Airport Road. (Section 3.1 of Agreement)

9. **Stormwater Management.** A stormwater management plan will be required because disturbed areas will exceed 1,000 square feet. Because the property lies at the City/County boundary line, the City of Lynchburg and Campbell County are conducting a joint review of the project. Based upon population density, the City of Lynchburg is classified by the Environmental Protection Agency (EPA) as a "Phase II" community, which requires stormwater management plans to address both quantity and quality of water being discharged into receiving channels. Phase II communities are also required to map commercial discharge points exceeding thirty-six (36) inches in diameter. Campbell County is not classified as a Phase II community by the EPA and is only required to account for the quantity of stormwater discharged into receiving channels.

The subject property lies at the "headwaters" of Tomahawk Creek and stormwater discharged from the proposed project will ultimately be discharged into a stream flowing through the City limits. Because of the sensitive environmental issues associated with the project, the Campbell County Board of Supervisors placed a condition of approval on the project that "The stormwater management system shall be designed and built to address both the quantity and quality of water discharged from the site. Water quality standards shall be those in effect in the City of Lynchburg as of this date (9/27/04) regardless of where the stormwater management system is located." The petitioner has also proffered in Campbell County that "The stormwater management system shall be designed and built to address both the quantity and quality of water being discharged from the site."

The City/County Cooperation Agreement also states that when City and County Erosion and Sediment Control/Stormwater Management requirements conflict, the County will incorporate the City's requirements for the proposed development. (Section 10.1 of Agreement)

10. **Impact.** The petition proposes to rezone the property from R-4, Multi-Family Residential and R-C Conservation District to B-3, Community Business District (Conditional) to allow for commercial access to serve a proposed shopping center in Campbell County.

The Future Land Use Map recommends a "Regional Commercial" use for the subject property and thus the proposed rezoning is in compliance with the *Comprehensive Plan*. The major impacts associated with the proposed development will be traffic, landscaping and stormwater. Traffic impacts along the frontage of the property have been addressed by voluntary proffers submitted by the petitioner. Stormwater

management issues have been addressed by voluntary proffers submitted by the petitioner in Campbell County and conditions of approval placed on the development by the Campbell County Board of Supervisors. There are standing regulations in the City of Lynchburg to adequately address stormwater management issues. Landscaping concerns have been addressed by the petitioner in the voluntarily submitted proffers.

Sec. 35.1-43.1. Conditional zone or zone approval, (h) states "After City Council has taken official action either granting, denying, or permitting withdrawal of a petition for any change in zoning or any change of zoning conditions, no other petitions for substantially the same change(s) shall again be considered in less than twelve (12) months from the date of such official action". The City Attorney has opined that since a Cooperation Agreement between the City of Lynchburg and the County of Campbell that addresses traffic and service impacts has been signed, there has been a significant enough change to warrant reconsideration of the rezoning petition.

11. **Police & Fire.** The construction of the shopping center will place additional demands for service on the City's Police and Fire Departments. The City's Chief of Police, Chuck Bennett has stated that the construction of the shopping center will increase traffic congestion in the area but the design of the proposed entrances and road improvements will help to alleviate these concerns. The City/County Cooperation agreement will also help offset demands for service by the payment of an annual service fee from the County to the City. The estimated service fee will be \$118,000 annually for forty (40) years.
(Section 4.2 & 11 of Agreement)

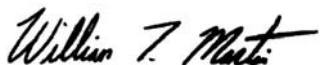
12. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on September 21, 2004. Comments have or will be addressed by the petitioner prior to final site plan approval.

VI. PLANNING DIVISION RECOMMENDED MOTION(s)

That the Planning Commission waives the twenty-one (21) day submittal requirements for proffers.

Based on the preceding Findings of Fact, the Planning Commission recommends approval of the rezoning of one and three tenths (1.3) acres at 108 Melinda Drive and Wards Road from R-4, Multi-Family Residential District and R-C, Conservation District to B-3, Community Business District (Conditional) with the voluntarily submitted proffers.

This matter is respectfully offered for your consideration.



William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. R. Douglas Dejarnette, Fire Marshal
Mr. J. Lee Newland, Director of Engineering
Lt. Danny R. Marks, Lynchburg Police Department Field Operations Bureau
Capt. Todd Swisher, Lynchburg Police Department North Division
Capt. H. W. Duff, Jr. Lynchburg Police Department East Division
Capt. Al Thomas, Lynchburg Police Department South Division
Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Ms. Annette Chenault, Planner II
Ms. Nicole Gilkeson, Community Development Planner

Mr. Brian Beaulieu, Representative

VII. ATTACHMENTS

- 1. Vicinity Zoning Pattern**
(see attached map)
- 2. Vicinity Proposed Land Use**
(see attached map)
- 3. Site Plan**
(see attached site plan)
- 4. Cooperation Agreement**
(see attached agreement)

The Department of Community Planning & Development

City Hall, Lynchburg, VA 24504

434-455-3900

To: Planning Commission
From: Planning Division
Date: November 2, 2005
Re: **CONDITIONAL USE PERMIT (CUP):** Fill within the 100-year floodplain to accommodate the construction of an access road for a retail shopping center.

I. PETITIONER

Compson Development, LC 1320 Old Chain Bridge Road Suite 400, McLean, VA 22101

Representative: Brian Beaulieu, Compson Development, LC 1320 Old Chain Bridge Road Suite 400, McLean, VA 22101

II. LOCATION

The subject property is a tract of 1 acre located adjacent to Wards Ferry Road, also known as Valuation Number 261-05-005.

Property Owners: English Development Corporation, 1522 Main Street, Altavista, VA 24517 and Wards Crossing West, 1320 Old Chain Bridge Road Suite 400, McLean, VA 22101

III. PURPOSE

The purpose of this petition is to allow for fill within the 100-year floodplain to accommodate the construction of an access road for a retail shopping center.

IV. SUMMARY

- Petition agrees with the Comprehensive Plan, in that road crossings may be developed within a Resource Conservation Area.
- Petition agrees with the Zoning Ordinance in that the access road is permitted in a B-3C Community Business District (contingent upon the approval of a separate rezoning petition).
- Petition proposes the construction of an access road for a retail shopping center.

The Planning Division recommends approval of the CUP petition.

V. FINDINGS OF FACT

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends a Resource Conservation use for the subject property. Resource Conservation Areas are planned to remain as vegetated open space with development limited to passive recreation facilities and infrastructure that must be located in stream valleys.

The Natural Systems chapter of the Lynchburg *Comprehensive Plan* further recommends limiting new development in the floodplain, since the Federal Emergency Management Agency (FEMA) 100-year floodplain maps are no longer accurate. The Planning Division recommends that the flood model section for Rock Castle Creek be updated and submitted as a Letter of Map Revision for the project that demonstrates that the fill will provide no net increase in the stream's 100-year flood elevation.

2. **Zoning.** The subject property was annexed into the City in 1976. The existing R-C, Conservation District zoning was established in 1978 with the adoption of the current *Zoning Ordinance*. The petitioner proposes to rezone the property to B-3C, Community Business District (conditional) zoning through a separate petition.
3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the proposed access road.
4. **Surrounding Area.** The following items have required City Council approval in the immediate area.

- On October 12, 1999, Lynchburg City Council approved The Church of Jesus Christ of Latter Day Saint's CUP petition to build a 46-space parking area at 110 Melinda Drive.
- On January 26, 1999, Lynchburg City Council approved Faison/Trammel Crowe Company's petition to rezone 58 acres from R-3, Two-Family Residential District, R-4, Medium-High Density Multi-Family Residential District, R-5, High Density Residential District and B-5, General Business District to B-5C, General Business District (Conditional) for the construction of a shopping center at the area generally bounded by Wards Ferry Road, Wards Road and Atlanta Avenue.
- On January 26, 1999 Lynchburg City Council approved Faison/Trammel Crowe Company's CUP petition to allow fill within the 100-year floodplain to permit construction of a shopping center at the area generally bounded by Wards Ferry Road, Wards Road and Atlanta Avenue.
- On September 11, 1984, Lynchburg City Council approved Covenant Presbyterian Church's CUP petition for the construction of a sanctuary, classrooms and an office at 108 Melinda Drive.

5. **Site Description.** The subject property is a tract of 1 acre that is currently undeveloped. The site is bounded to the north by church and residential uses, to the east and south by commercial uses and to the west by a small apartment building and undeveloped area.

6. **Proposed Use of Property.** The purpose of this petition is to allow for fill within the 100-year floodplain to facilitate the construction of a road to access a retail shopping center. The shopping center site will include 267,694 square feet of retail space, 1,341 space parking area and stormwater management/stream avoidance areas.

7. **Storm Water Management.** New impervious areas will exceed 1,000 square feet; as such, a stormwater management plan will be required for the construction. Stormwater management for the access road will be accomplished through the use of a low-impact design strategy. Preliminary observations indicate that the receiving channel is adequate for the site's stormwater. Stormwater quantity management for the shopping center will be handled through a separate site plan/permit.

Stormwater quality for the site will also be addressed through low impact design; typical quality measures for access roads in the City have included a combination of curb cuts and infiltration practices for road water discharge. Stormwater quality management for the shopping center will be handled through a separate site plan/permit.

8. **Impact.** The proposed development of the portion of the access road within the City of Lynchburg will have minimal impact on the adjacent stream corridor. The fill required to construct the road will be minimal and designed so as not to provide any additional restriction to the existing stream channel. The Planning Division recommends that impacts of the proposed fill be evaluated using the HEC-RAS (Hydrologic Engineering Center – River Analysis System) model to verify the result is a “no net rise” in the flood elevation of Rock Castle Creek. Staff further recommends that a condition be placed on the project requiring that, once the project has been constructed, the applicant apply for a Letter of Map Revision (LOMR). Once FEMA has completed their review of the LOMR they will document an official update to the 100-year floodplain maps.

New impervious areas for the proposed project will exceed 1,000 square feet; therefore, stormwater management for quantity and quality management will be required for the project. Stormwater will be managed through Low Impact Design Standards and subject to the review and approval of the Environmental Planner.

9. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on Tuesday, September 24th, 2004. Comments related to the proposed road were minor in nature and have or will be addressed by the developer prior to final site plan approval.

10. **Conditions.** According to Section 35.1-15 (f) of the Zoning Ordinance, the Planning Commission or City Council may impose any conditions deemed necessary of appropriate in approving a CUP.

VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the Compson Development's petition for fill within the 100-year floodplain to accommodate the construction of an access road for a retail shopping center, subject to the following conditions:

5. The property will be developed in substantial compliance with the site plan prepared by Mattern & Craig dated October 11, 2005.
6. The petitioner will submit to the City the following information, subject to the review and approval of the Environmental Planner and the Senior Design Engineer:
 - * *The proposed limits of the 100-year floodplain must be identified on the site plan.*
 - * *A note on the site plan detailing the water surface elevation at the upstream and downstream boundaries of the property line.*
 - * *An electronic copy of the HEC model.*
7. The petitioner will attain a Letter of Map Revision (LOMR) from the Federal Emergency Management Agency for the subject fill.
8. Stormwater runoff from the access road will be managed through Low Impact Design Standards and subject to the review and approval of the City's Environmental Planner

This matter is respectfully offered for your consideration.

William T. Martin, AICP
City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. R. Douglas Dejarnette, Fire Marshal
Mr. J. Lee Newland, Director of Engineering
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Mr. Gerry L. Harter, Traffic Engineer
Mr. Robert Drane, Building Commissioner
Mr. Keith Wright, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Ms. Nicole Gilkeson, Community Development Planner
Ms. Erin B. Hawkins, Environmental Planner
Mr. Brian Beaulieu, Representative

VII. ATTACHMENTS

1. **Vicinity Zoning Pattern**
(see attached map)
2. **Vicinity Proposed Land Use**

(see attached map)

3. Site Plan

(see attached site plans)

MINUTES FROM THE NOVEMBER 1, 2005 PLANNING COMMISSION MEETING.

These minutes have been reviewed but not approved by the Planning Commission.

Petition of Compson Development, LC to rezone approximately 1.7 acres located at 108 Melinda Drive and property that is south of Melinda Drive that is located on and fronts Wards Ferry Road. The subject properties are also known as Valuation Map #'s 261-05-001 and 261-05-005. The petition would rezone the subject properties from R-C, Conservation District and R-4, Medium-High Density Multi-Family Residential District to B-3, Community Business District (Conditional) to allow the construction of commercial entrances.

Petition of Compson Development, LC for a Conditional Use Permit to allow fill in the flood plain of Rock Castle Creek to facilitate the construction of commercial entrances. The subject properties are south of Melinda Drive and are located on and front Wards Ferry Road. The subject properties are also known as Valuation Map #'s 260-06-002 and 261-05-005.

Chair Dahlgren read into the record the following statement prepared by Commissioner Bacon, who was unable to attend this meeting.

"I will not be available for the November 1 meeting as I will be out of state. However, I have some grave concerns on the area of 'Fill-in Flood Plain'. I hope there is some way to assure this will not add to the silt, drainage, and flooding of Blackwater Creek, as well as College Lake. I am sure this will be addressed, but want it brought out that this could be an important issue."

Chair Dahlgren added that there would be no vote considered for Commissioner Bacon's opinion.

Mr. Tom Comparato, Compson Development, L.C., McLean, Virginia, and Mr. Tom Austin, Mattern & Craig, Consulting Engineers, Roanoke, Virginia represented these petitions.

Mr. Comparato explained that they were at this meeting to request the rezoning of 1.7 acres along Wards Ferry Road to allow for a commercial entrance and to seek a Conditional Use Permit (CUP) to fill in a very limited amount of flood plain. He added that there were substantial differences with this site plan as opposed to their original site plan. He explained that those differences were the reason they were able to bring this request back before the Planning Commission and City Council before the one-year waiting period expired. He noted that there was an agreement made between Campbell County and the City of Lynchburg that addressed many of the issues with respect to this development. Mr. Comparato said they were basically here to answer questions since most of the issues had been addressed in the new site plan and through proffers. He said they appreciated the Commission's support of their previous plan and hoped they would approve this new, improved site plan at this meeting.

Mr. Austin continued to explain that the key issues discussed with this Commission previously were still on their minds, and it was their goal to address these issues to the Commission's satisfaction as before. He noted that the issues were broken down into the categories of traffic, landscaping, and stormwater management, and said they thought the proffers adequately addressed those concerns. He explained that they had received a permit from the Army Corp of Engineers (Corp) and the Virginia Department of Environmental Quality (DEQ) for the work that had to be performed in Rock Castle Creek. Mr. Austin told the Commission that the work needing to be done in the county was impacting the creek. He said they had been through a twelve- (12) month process working with the Corp and DEQ to address their concerns and going through their permitting process, which included mitigation of the impact being caused to Rock Castle Creek through preservation of other stream areas. He explained that a key component of the work they did through DEQ involved water quality. He noted that they had to adhere to State standards for water quality during construction, which would involve erosion and sediment control measures, and also adhere to State standards for water quality after construction, which meant

the water must be filtered, settled and discharged in a manner so as to not damage the water quality down stream. Mr. Austin said the County did not have water quality standards, but the City did, which they had adopted from the State.

Chair Dahlgren suggested that a copy of the permit from DEQ and the Corp allowing work in Rock Castle Creek be supplied to Mr. Martin for the City's records.

Mr. Stuart Whittaker, 39 Toddsbury Road, represented the Vista Acres neighborhood in their opposition to the petition. Mr. Whittaker reminded the Commission that at the previous public hearing for this project, they presented a Petition of Opposition signed by one hundred, seventy-five (175) people living in this area. He quoted from Council minutes from their November 23, 2004 and February 22, 2005 meetings where Council members acknowledged that "traffic would still be a concern in this area and in the adjoining neighborhoods", and that "the shopping center would also add to the traffic problems in the adjoining Vista Acres neighborhood." He also quoted Mr. Gerry Harter, City Traffic Engineer, from the February 22, 2005 Council meeting stating "that there is a problem with speeding, especially on Alta Land and Melinda Drive." Mr. Whittaker said the traffic was a problem from the existing shopping center, which Council was aware of, and still these issues had not been resolved even though another shopping center was being considered. He wanted to know how traffic issues would be resolved before the proposed shopping center would be allowed to open. He noted that in the Cooperation Agreement, there was reference to an additional entrance to be built to Leesville Road. Mr. Whittaker asked what guarantees the citizens had concerning the cut-through traffic currently congesting the Vista Acres neighborhood. He said he was bringing this up to remind Council that they previously stated that the City of Lynchburg had a responsibility to address the traffic concerns in the neighborhood and to come up with a solution whether or not the shopping center was approved. He also asked about the traffic congestion at the intersection of Wards Road and Wards Ferry Road, as Mr. Harter said himself previously that "he could not support the access point onto Wards Ferry Road in the vicinity of Logan's Roadhouse because it was too close to an existing intersection." Mr. Whittaker suggested that the City needed to require that the additional entrance be completed *before* the shopping center was opened and that the City be required to implement traffic calming solutions for the Vista Acres neighborhood right away. He was wondering about the Development Area Master Plan and how it would affect the shopping center, and if it would have guidelines that effect both Phase 1 and Phase 2 of this proposal. He said these were issues that needed to be understood before the Planning Commission could vote on this project just to rush it through to City Council.

Mrs. Judith Mazurkiewicz, 129 Melinda Drive spoke in opposition to the request. Mrs. Mazurkiewicz explained that Mr. Whittaker had touched on some of the issues that concerned her, but said she wanted some additional issues addressed and answered. She said in Section 3.6 of the Cooperation Agreement it stated that a Certificate of Occupancy for Phase I would not be issued prior to the traffic improvements required under Paragraph 5, and also that the County shall not issue a Certificate of Occupancy for Phase II unless and until the County had acquired rights-of-way required under the agreement, completed construction of the roadway within the Wards Crossing West section, and rough graded the road to the third access point on Leesville Road. She noted that it also stated that the County had agreed to construct the public road from Wards Crossing to Leesville Road within eighteen (18) months of the rezoning approval. Mrs. Mazurkiewicz said that those statements were confusing and asked if the road would be required to be constructed or not. She explained that she was also confused by the statement in Section 8.2 saying that the City shall have the option to terminate the agreement if the County failed to acquire the binding contractual commitments for rights-of-way acquisition within ninety (90) days of the rezoning. She added that there was a signal light at one intersection, and that the second entrance was supposed to be a right-in, right-out configuration. She added her concern that the shopping center only had one exit. Mrs. Mazurkiewicz expressed her appreciation that the City and County were working together to make this a workable solution for everyone, but the neighbors would like to be assured that there would be relief in their area.

Mr. Comparato and Mr. Austin gave a rebuttal to the opposition. Mr. Comparato apologized to the neighbors for not meeting with them before this public hearing, saying that it was an oversight. He added that he would be happy to meet with any of the neighbors later this week or early next week.

Mr. Comparato continued by saying that with respect to the agreement, the Phase 1 - Phase 2 concept was developed to limit the traffic generated by the shopping center prior to the completion of the road. He noted that the timing of the completion of the access road to Leesville and/or Airport Roads was being driven by the length and complexity of the road, and explained that the location of it joining with Leesville had not been determined as they were working with their Master Plan development company to decide the best location. After that determination was made, Mr. Comparato said, they would get a soft approval from Campbell County and the City of Lynchburg, and then proceed with a formal application. He told the Commission that officials from the City and the County all thought this would be the best way to let Phase 1 open first then complete the entire road within eighteen (18) months. He added that they plan to open Phase 1 in October 2006, and thought they could come close to opening the road at the same time, depending on the weather and other issues, but were afraid to commit to having it completed within that time frame. He pointed out that Phase 1 included Retail A, B, C, and H, which was near Wards Ferry Road.

Mr. Comparato said the proffers were almost identical to the proffers from the past submittal, with one previous proffer deleted, and one new proffer added. He explained that the new proffer protected the fifty- (50) feet on each side of the creek, which was zoned R-C.

Mr. Comparato said he understood that the \$100,000 mentioned in the Cooperation Agreement in Section 5.1 (a), was the City's money to use at their discretion, so he could not answer any questions concerning that money.

Mr. Bo Blair, 204 Alta Lane, asked what happened to the dentist office that was previously in the plan. He reminded the Commissioners that they were representatives of the citizens of the City of Lynchburg and that the people who live in Vista Acres were citizens of the City of Lynchburg.

Mr. Comparato explained that the dentist was no longer interested in leasing in this area.

Mr. Whittaker expressed his appreciation to Mr. Comparato for his answers and explanations to the concerns of the people who live in Vista Acres. He added that if they were able to open on schedule, it would be nice to have a written agreement stating that they would try to have the road completed by that time as.

Commissioner Barnes asked if the location of the outlet to Leesville Road was in Parcel 4A, and asked for more detail of how water quality would be addressed after construction.

Mr. Martin said he had spoken to Mr. David Laurell, of Campbell County, and Mr. Laurell explained that the access road would parallel Rt. 460 and would access Leesville Road midway between Bud Drive and Leesville Road. He said if the road continued to Airport Road, it would come out in the vicinity of the outlet mall.

Mr. Comparato said the post-construction water quality was really pre-construction water quality. He explained that they would build silt filtrations, and added that the water from the parking lot would be filtered in a catch basin, as well as in a sediment pond.

Mr. Austin added that the roofs were sloped back to allow the water to run off into a pipe then into a detention basin north of the main entrance. He continued by explaining that Retail 'H' would drain to the perimeter of the parking lot, where curb slots or pavement with wheel stops, would allow the water to sheet flow off the pavement and flow into infiltration basins located along the perimeter of the parking

lot. He added that landscape berm and bioretention would be incorporated in front of Retail 'H', and noted that water would then filter through the infiltration process and hopefully percolate back into the ground water. He explained that all of the water in the main parking lot would drain to the center of the lot, where a combination of porous pavement and gravel and permeable pavement blocks would let the water filtrate into infiltration trenches, then be filtered through clean stone and percolate back into the ground water. He said there were some areas where they would use large oversized pipes for detention. He noted that all of these systems were designed according to the state standards

Commissioner Hamilton asked what protected Rock Castle Creek as it ran under the parking lot.

Mr. Austin said he had worked with DEQ looking at cost benefit analysis which was what they made petitioners do when they applied for a permit to fill in the waters of the U.S, adding that Rock Castle Creek was under the jurisdictional control of DEQ and the Corp. He added that under the Clean Water Act those two agencies regulate what can be done. He explained that when they proposed that Rock Castle Creek be piped under the parking lot, DEQ and the Corp asked for alternatives. Mr. Austin said to satisfy the two agencies, Compson had to show that the water would minimize the impact. He pointed out the Stream Avoidance Areas shown on the site plan where Compson committed to DEQ and the Corp not to fill in or impact the channel in those areas. He said they had scaled back the development and the parking lots as a result. He noted that there was a very strict requirement to meet with DEQ to fulfill the restrictions of their permit. Mr. Austin added that DEQ, the Corp, Campbell County and the City of Lynchburg would all have oversight of the project during construction.

Chair Dahlgren asked to be shown where 108 Melinda Drive was on the site plan, and asked exactly how large the site was. He asked if he was interpreting correctly when he read that there would be no commercial access to Melinda Drive. He asked where in the agreement was the statement concerning the forty- (40) year Cooperation Agreement. Chair Dahlgren asked about the right-in, right-out on Wards Ferry Road.

Mr. Martin pointed out 108 Melinda Drive on the site plan, but noted that Mr. Comparato had recently close on that portion of the property, which was originally owned by the Church. Mr. Martin said the size of the lot was approximately 1.3 acres, which was a little less than the original site plan. He said the forty (40) year agreement was mentioned on Page 11, Section 11, stating that "This Cooperation Agreement shall remain in effect for a period of forty (40) years from the date of execution."

Mr. Comparato said there was no access or driveway from the shopping center to Melinda Drive or Toddsbury Lane.

Mr. Austin said the difference from a year ago, was that previously the entrance did not line up because of the flood-plain issue. He said currently they do line up with one another, and it was still a right-in, right-out

Chair Dahlgren asked if the City wanted the entrance to the new development directly across from the entrance to O'Charleys Restaurant.

Mr. Gerry Harter, City Traffic Engineer, responded that as long as the lanes were separated by a median, then right-in and right-out would operate adequately.

Chair Dahlgren said he would be happy if there was another proffer stating that it was a right-in, right-out, as it might come up in the future.

Mr. Martin said if he wished to do so, it would be acceptable for Mr. Comparato to submit that proffer at this time; the Commission would have to vote to waive the 21-day waiting period.

Mr. Comparato said he would be willing to write the additional proffer.

Commissioner Flint commented that the Commission had approved Compson's previous plan, and this plan was much better than their previous submittal. He noted that the City was only concerned with the small portion of land in the City, and added that the traffic issues were much better with the submitted proffers.

Chair Dahlgren and Commissioner Worthington agreed with Commissioner Flint.

Mr. Martin told the Commissioners and citizens of Vista Acres that according to the Cooperation Agreement, the traffic management improvements in the neighborhood were supposed to be complete prior to Phase 1 being complete and Compson getting a CO from Campbell County. He added that the road improvements being proffered by Mr. Comparato should also be finished. Mr. Martin said that it was very important for the City to begin working on what those traffic management steps would be as they needed to be completed before October 2006.

Mr. Harter said the traffic management improvements would be done in one of two ways, with the first option being to wait until the Traffic Management Policy was adopted by City Council, which would be very soon. He added that the City already had a list of streets that needed to be addressed very quickly, which did include Melinda Drive and the Vista Acres subdivision.

Mr. Martin said regardless of the City adopting the Traffic Management Policy, Council was signing this agreement with the County, committing to traffic management in this area, no matter what. He reiterated that this agreement was guaranteeing that traffic management would be done.

Chair Dahlgren said considering the agreement, they felt it was a binding document between Campbell County and the City of Lynchburg, and most certainly should be started as soon as possible without delay.

Commissioner Hamilton asked how the current entrance was different than the entrance from the previous petition.

Mr. Martin said there was a very sharp curve toward Wards Road, but the number of lanes, turning movements, and location was exactly the same. He said the other entrance had been shifted to line up with the entrance to Logan's Roadhouse and O'Charleys.

Commissioner Barnes asked about the Development Area Management Plan and how citizens could participate in that process, as it was a County plan.

Mr. Martin said with the construction of the new rear access road, it would be in the County's best interest to construct this road as it would encourage and facilitate more commercial activity, and thought the Development Area Management Plan would be an amendment to Campbell County's Master Plan. If it happens in that way, he added, there would be a public hearing process where the citizens could be involved. Mr. Martin noted that the Cooperation Agreement inferred that the City would be involved, and it would be more of a planned area than just developed in a haphazard way.

Commissioner Pulliam said the City and County had made tremendous improvements over the previous plan. However, he noted his concern for the neighbors. He said no one on the Commission would want that development in their back yard, and with approximately one hundred, seventy-five people in opposition to the development, he said he could not support the petition. Commissioner Pulliam said there would still be traffic problems, and that there must be a better location for this development.

Commissioner Pulliam made the following motion, which failed to receive a second, therefore the motion died.

"That the Planning Commission recommends to City Council denial of the rezoning of one and three tenths (1.3) acres at 108 Melinda Drive and Wards Road from R-4, Multi-Family Residential District and R-C, Conservation District to B-3, Community Business District (Conditional) with the voluntarily submitted proffers."

Commissioner Hamilton said she somewhat agreed with Commissioner Pulliam in terms of addressing the traffic issues. She added that she hoped the citizens who signed the petition would be more satisfied with the way things look now as how they looked a year ago. Commissioner Hamilton asked City Council to consider moving faster on the traffic calming measures and on public transportation provided for the shopping center.

Chair Dahlgren said he also hoped that the neighbors were more satisfied with the current plan. He said the offer of Mr. Comparato to meet with the neighbors was a kind one, and hoped that they took him up on that offer. He added that there being no access to Melinda Drive solved a lot of his concerns, and noted that there were many benefits to both the City and the County in having the shopping center at that location. Chair Dahlgren pointed out that the City's Comprehensive Plan designated that area for business use. He said with the concessions made, this development was as good as it could be; however, the final decision would be up to City Council.

Commissioner Flint asked if there was anything that the City could do to prevent the County property from being developed commercially and putting an entrance on County property across from Logan's Roadhouse, which would be by-right. He asked if the City objected to the development, could the developer claim a Taking of their right to build. Commissioner Flint added that what had been worked out was a much better solution to the traffic for the neighborhood and Wards Road.

Mr. Martin explained that from a zoning standpoint, there would not be anything that the City could do to prevent the construction. However, he continued, from a traffic engineering standpoint, there would probably be serious concerns with putting another entrance that close to the intersection of Wards Road and Wards Ferry Road. Mr. Martin said there was a possibility that an entrance could have been put there, but everyone realized that it was in the best interest to have these entrances constructed in a manner that was as safe as possible, which was the solution that was before them today.

After discussion, Commissioner Worthington made the following motion, which was seconded by Commissioner Flint and passed by the following vote:

"That the Planning Commission waive the twenty-one (21) day submittal requirements for proffers."

| | | |
|--------------|--|---|
| AYES: | Barnes, Dahlgren, Flint, Hamilton, Worthington | 5 |
| NOES: | Pulliam | 1 |
| ABSTENTIONS: | | 0 |
| ABSENT: | Bacon | 1 |

After discussion, Commissioner Worthington made the following motion, which was seconded by Commissioner Flint and passed by the following vote:

"That the Planning Commission recommends approval of the rezoning of one and three tenths (1.3) acres at 108 Melinda Drive and Wards Road from R-4, Multi-Family Residential District and R-C, Conservation District to B-3, Community Business District (Conditional) with the voluntarily submitted proffers and one additional proffer submitted at this meeting, which reads

The developer agrees to construct the southern entrance onto Wards Ferry Road from the shopping center as a "right in, right out" only and as shown lined up with the Logans entrance."

| | | |
|--------------|--|---|
| AYES: | Barnes, Dahlgren, Flint, Hamilton, Worthington | 5 |
| NOES: | Pulliam | 1 |
| ABSTENTIONS: | | 0 |
| ABSENT: | Bacon | 1 |

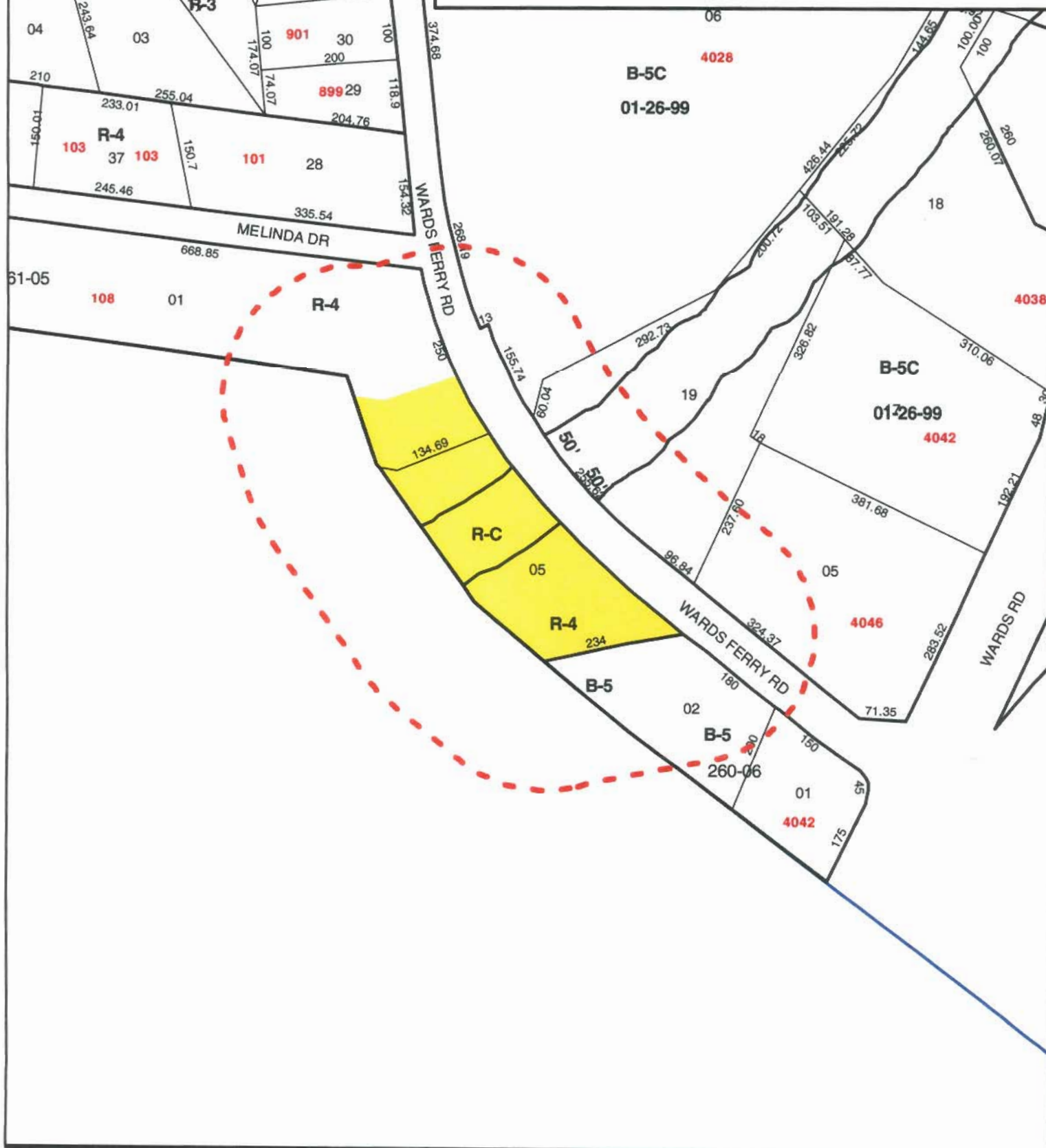
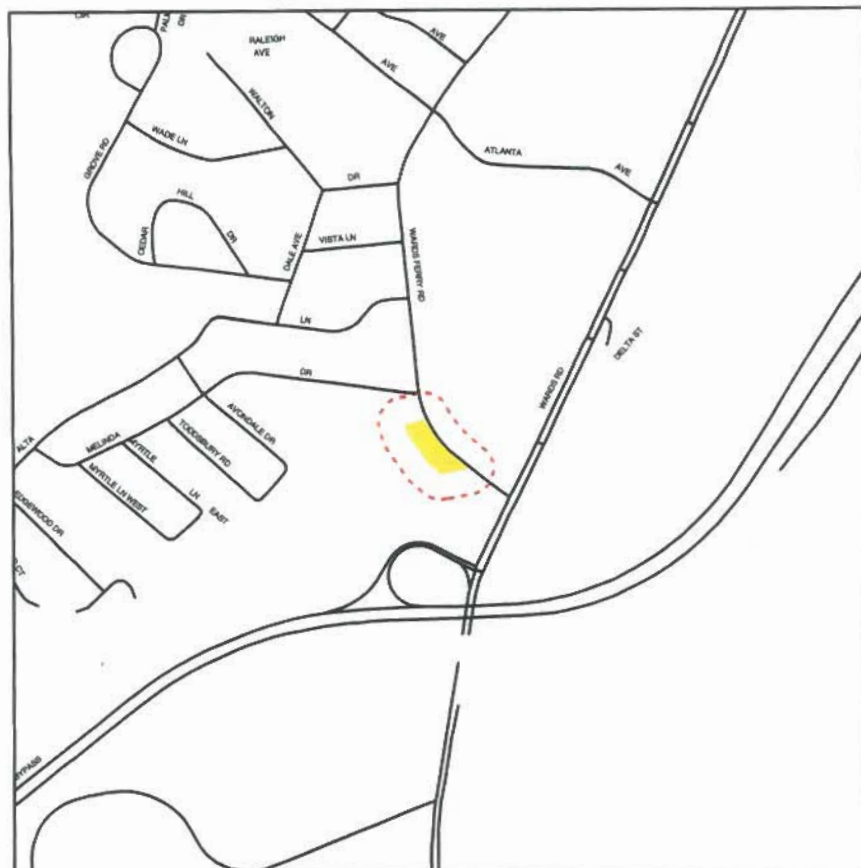
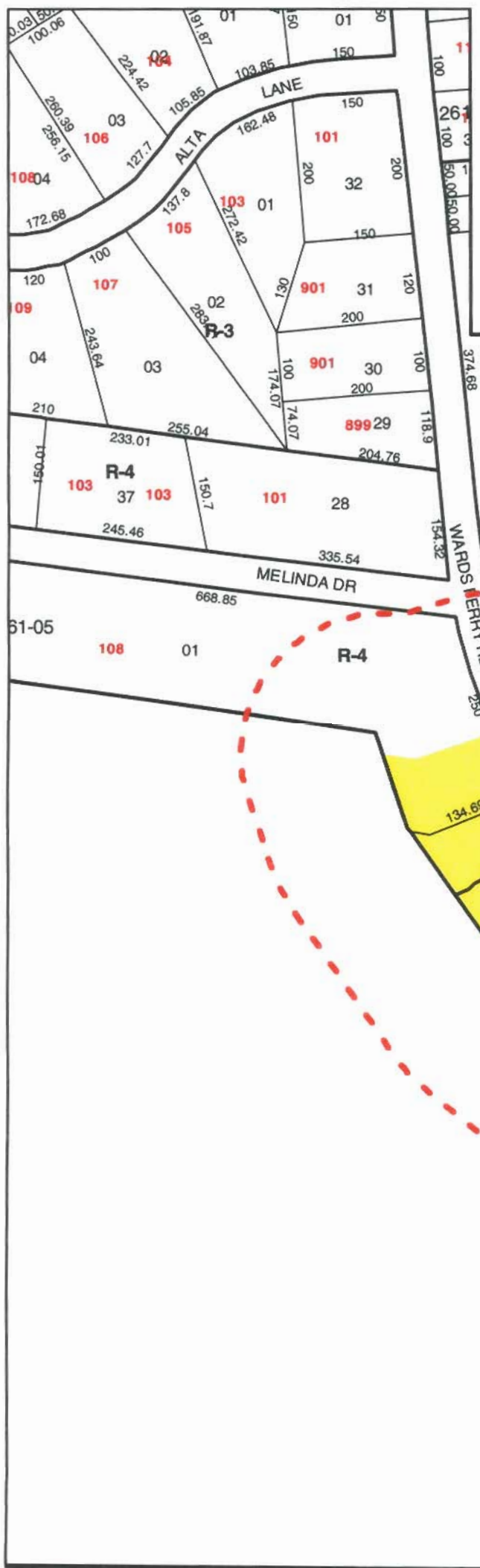
After discussion, Commissioner Worthington made the following motion, which was seconded by Commissioner Flint and passed by the following vote:

"That the Planning Commission recommends to the City Council approval of the Compson Development's petition for fill within the 100-year floodplain to accommodate the construction of an access road for a retail shopping center, subject to the following conditions:

1. The property will be developed in substantial compliance with the site plan prepared by Mattern & Craig dated October 11, 2005.
2. The petitioner will submit to the City the following information, subject to the review and approval of the Environmental Planner and the Senior Design Engineer:
 - * *The proposed limits of the 100-year floodplain must be identified on the site plan.*
 - * *A note on the site plan detailing the water surface elevation at the upstream and downstream boundaries of the property line.*
 - * *An electronic copy of the HEC model.*
3. The petitioner will attain a Letter of Map Revision (LOMR) from the Federal Emergency Management Agency for the subject fill.
4. Stormwater runoff from the access road will be managed through Low Impact Design Standards and subject to the review and approval of the City's Environmental Planner."

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|--------------|--|---|
| AYES: | Barnes, Dahlgren, Flint, Hamilton, Worthington | 5 |
| NOES: | Pulliam | 1 |
| ABSTENTIONS: | | 0 |
| ABSENT: | Bacon | 1 |

Wards Ferry Road
Val. Map # 261-05-005, P/O 261-05-001
Rezoning from R-4 & R-C to B-3C
Petitioner: Compson Development, LC

 200 ft Radius

COMPSON DEVELOPMENT
Wards Ferry Road

| PIN | OWNER |
|----------------|---|
| | CHURCH OF JESUS CHRIST OF LATTER- DAY SAINTS TRS |
| 13 A 51 | ATTN: BISHOP EDWARD MALONE |
| 26105001 | COVENANT PRESBYTERIAN CHURCH |
| 13 A 50 | COVENANT PRESBYTERIAN CHURCH |
| | DAYTON HUDSON CORPORATION |
| 25705006 | C/O TARGET CORP TAX DEPT T1275 |
| 26105005 | ENGLISH DEVELOPMENT CORP |
| 13 A 49 | ENGLISH DEVELOPMENT CORP |
| 25705019 | FAISON-SEVEN HILLS LLC |
| 25705005 | LOGANS ROADHOUSE INC |
| 26006001 | WARDS CROSSING WEST LLC |
| 26006002 | WARDS CROSSING WEST LLC |
| 13D 1 19 | WARDS CROSSING WEST LLC |
| Owner | ENGLISH DEVELOPMENT CORP |
| Owner | COVENANT PRESBYTERIAN CHURCH |
| Owner | COMPSON DEVELOPMENT, LC |
| Petitioner | COMPSON DEVELOPMENT, LC |
| Representative | BRIAN BEAULIEU C/O COMPSON DEVELOPMENT, LC |

Wards Ferry Road
Val. Map # 261-05-005, P/O 261-05-001, 260-06-002
Conditional Use Permit Request
Petitioner: Compson Development, LC

ALTA LANE

MELINDA DR

WARDS FERRY RD

R-3

R-4

R-C

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103

105

901

999

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37

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108

134.69

261.02

118.9

154.32

155.75

127.28

105.85

127.7

137.8

162.48

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150

120

31

200

30

200

29

204.76

174.07

74.07

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118.9

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335.54

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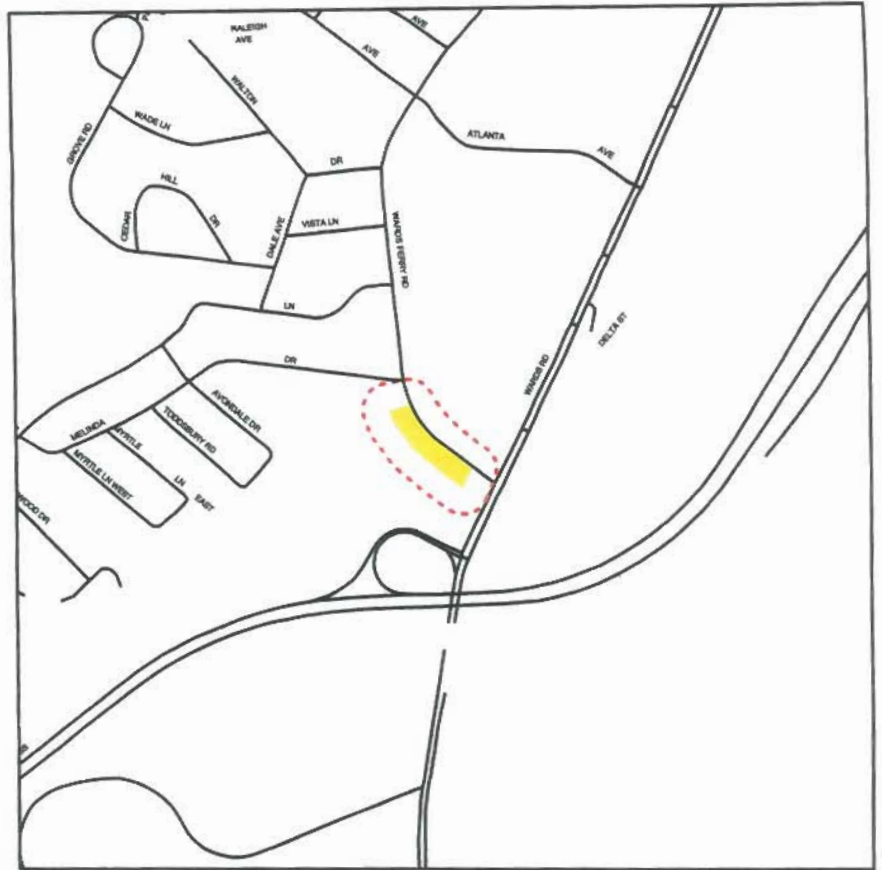
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B-5C
01-26-99

B-5C
01-26-99
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B-5
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WARDS FERRY RD

WARDS RD

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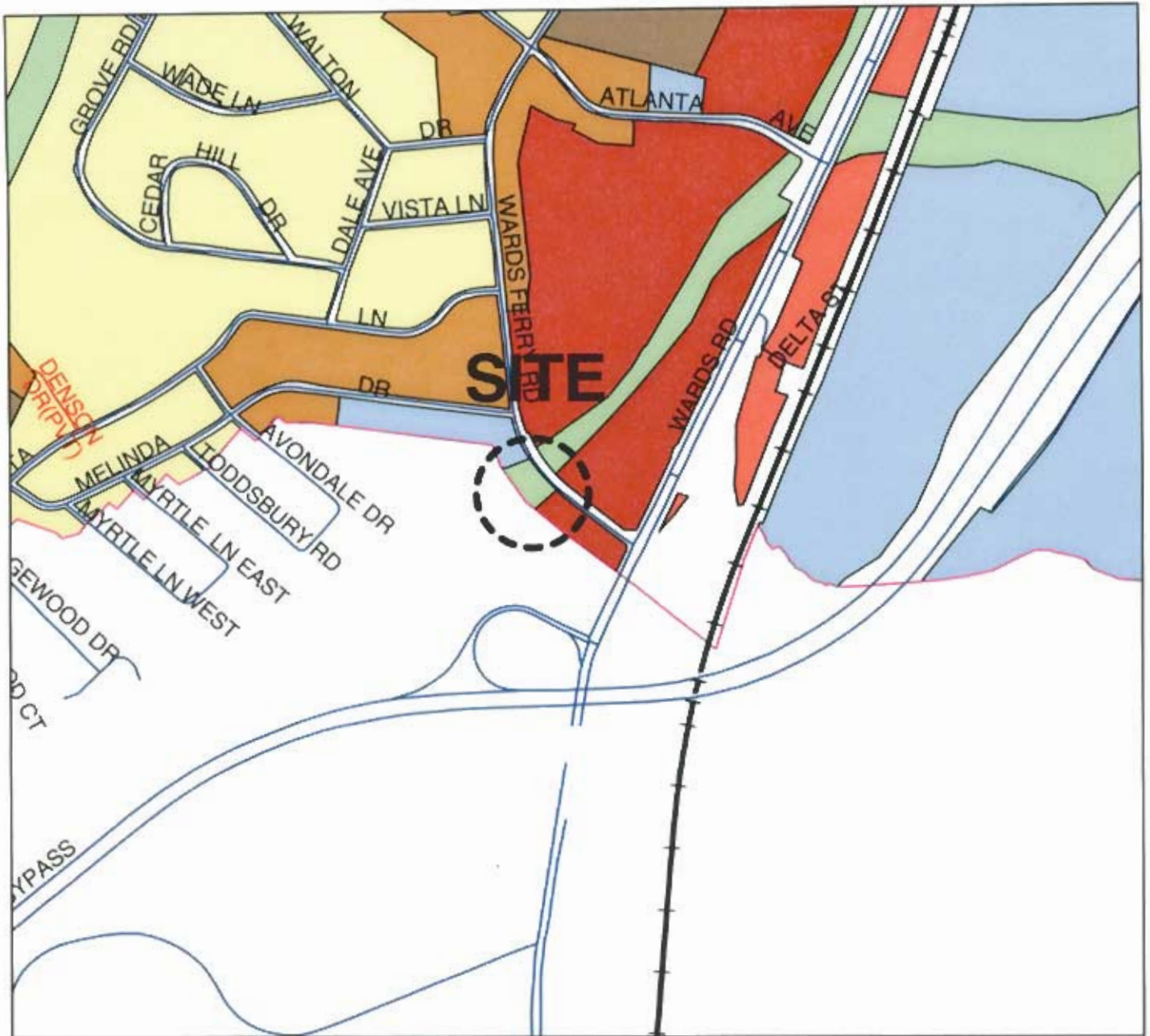
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COMPSON DEVELOPMENT

Wards Ferry Road

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COMPSON DEVELOPMENT WARDS FERRY ROAD LAND USE PLAN



